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Noted by Gov.
+ then signed

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



ENROLLED

HOUSE BILL No. 3155

(By ~~Delegate~~ *Mr. Speaker, Mr. Chambers*)



Passed *April 7,* 1987

In Effect *from* Passage

★ENROLLED

H. B. 3155

(By MR. SPEAKER, MR. CHAMBERS)

[Passed April 7, 1987; in effect from passage.]

AN ACT to amend and reenact sections two, three, fourteen, twenty, twenty-four, twenty-six, thirty-seven, forty-three, forty-six, fifty-five, fifty-six, fifty-eight, sixty-three and seventy-seven, article two, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article two by adding thereto a new section, designated section seventy-one-a; and to amend and reenact section twenty-two (nine) (six), article two, chapter sixty-four of said code, as amended, all relating to underground mines generally; coal mine plans of ventilation and approval of director; fans; safety inspections; removal of gases; preparation of danger signal by fire boss; control of coal dust; rock dusting; specific requirements as to roof supports; haulage roads and equipment; shelter holes; signals; inspection; electrical equipment in mines; welding and cutting; protective equipment and clothing; checking systems; fire protection; certificate of approval for coal mines; right to refuse to work in unsafe area; certain practices prohibited; monthly report by operator of mine and providing certain exceptions therefor; and authorizing the promulgation of certain legislative rules and regulations relating to the standards for certification of underground belt examiners for underground coal mines.

★2nd Enrollment

Be it enacted by the Legislature of West Virginia:

That sections two, three, fourteen, twenty, twenty-four, twenty-six, thirty-seven, forty-three, forty-six, fifty-four, fifty five, fifty-six, fifty-eight, sixty-three and seventy-seven, article two, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article two be further amended by adding thereto a new section, designated section seventy-one-a; and that section twenty-two (nine) (six), article two, chapter sixty-four of said code, as amended, be amended and reenacted, all to read as follows:

CHAPTER 22A. MINES AND MINERALS.

ARTICLE 2. UNDERGROUND MINES.

§22A-2-2. Plan of ventilation; approval by director of the division of mines and minerals.

1 Every operator of a coal mine, before making any new
2 or additional openings, shall submit to the director, for
3 his information and approval, a general plan showing
4 the proposed system of ventilation and ventilating
5 equipment of the openings, with their location and
6 relative positions to adjacent developments; no such new
7 or additional openings shall be made until approved by
8 the director, in consultation with the deputy directors
9 of permitting and safety, health and training. The
10 operator shall deliver to the miners' representative
11 employed by the operator at the mine a copy of the
12 operator's proposed annual ventilation plan at least ten
13 days prior to the date of submission. The miners'
14 representative shall be afforded the opportunity to
15 submit written comments to the operator prior to such
16 submission; in addition the miners' representative may
17 submit written comments to the director. The director
18 shall promptly approve any such plans submitted, if the
19 proposed system of ventilation and ventilating equip-
20 ment meet the requirements of this article.

§22A-2-3. Fans.

1 (a) The ventilation of mines, the systems for which
2 extend for more than two hundred feet underground
3 and which are opened after the effective date of this

4 article, shall be produced by a mechanically operated
5 fan or mechanically operated fans. Ventilation by means
6 of a furnace is prohibited in any mine. The fan or fans
7 shall be kept in continuous operation, unless written
8 permission to do otherwise be granted by the director.
9 In case of interruption to a ventilating fan or its
10 machinery whereby the ventilation of the mine is
11 interrupted, immediate action shall be taken by the
12 mine operator or his management personnel, in all
13 mines, to cut off the power and withdraw the men from
14 the face regions or other areas of the mine affected. If
15 ventilation is restored in fifteen minutes, the face
16 regions and other places in the affected areas where gas
17 (methane) is likely to accumulate, shall be reexamined
18 by a certified person; and if found free of explosive gas,
19 power may be restored and work resumed. If ventilation
20 is not restored in fifteen minutes, all underground
21 employees shall be removed from the mine, all power
22 shall be cut off in a timely manner, and the under-
23 ground employees shall not return until ventilation is
24 restored and the mine examined by certified persons,
25 mine examiners, or other persons holding a certificate
26 to make preshift examination.

27 (b) All main fans installed after the effective date of
28 this article shall be located on the surface in fireproof
29 housings offset not less than fifteen feet from the nearest
30 side of the mine opening, equipped with fireproof air
31 ducts, provided with explosion doors or a weak wall, and
32 operated from an independent power circuit. In lieu of
33 the requirements for the location of fans and pressure-
34 relief facilities, a fan may be directly in front of, or over
35 a mine opening: *Provided*, That such opening is not in
36 direct line with possible forces coming out of the mine
37 if an explosion occurs: *Provided, however*, That there is
38 another opening having a weak-wall stopping or
39 explosion doors that would be in direct line with forces
40 coming out of the mine. All main fans shall be provided
41 with pressure-recording gauges or water gauges. A
42 daily inspection shall be made of all main fans and
43 machinery connected therewith by a certified electrician
44 and a record kept of the same in a book prescribed for
45 this purpose or by adequate facilities provided to

46 permanently record the performance of the main fans
47 and to give warning of an interruption to a fan.

48 (c) Auxiliary fans and tubing shall be permitted to be
49 used in lieu of or in conjunction with line brattice to
50 provide adequate ventilation to the working faces:
51 *Provided*, That auxiliary fans be so located and operated
52 to avoid recirculation of air at any time. Auxiliary fans
53 shall be approved and maintained as permissible.

54 (d) If the auxiliary fan is stopped or fails, the
55 electrical equipment in the place shall be stopped and
56 the power disconnected at the power source until
57 ventilation in the working place is restored. During such
58 stoppage, the ventilation shall be by means of the
59 primary air current conducted into the place in a
60 manner to prevent accumulation of methane.

61 (e) In places where auxiliary fans and tubing are
62 used, the ventilation between shifts, weekends, and idle
63 shifts shall be provided to face areas with line brattice
64 or the equivalent to prevent accumulation of methane.

65 (f) The director may require that when continuous
66 mine equipment is being used, all face ventilating
67 systems using auxiliary fans and tubing shall be
68 provided with machine-mounted diffuser fans, and such
69 fans shall be continuously operated during mining
70 operations.

71 (g) In the event of a fire or explosion in any coal mine,
72 the ventilating fan or fans shall not intentionally be
73 started, stopped, speed increased or decreased or the
74 direction of the air current changed without the
75 approval of the general mine foreman, and, if he is not
76 immediately available, a representative of the division.
77 A duly authorized representative of the employees
78 should be consulted if practical under the circumstan-
79 ces.

§22A-2-14. Safety inspections; removal of gases.

1 It shall be the duty of the mine foreman, assistant
2 mine foreman or fire boss to examine all working places
3 under his supervision for hazards at least once every two
4 hours during each coal-producing shift, or more often if

5 necessary for safety. In all mines such examinations
6 shall include tests with an approved detector for
7 methane and oxygen deficiency, which tests for oxygen
8 deficiency may be with a permissible flame safety lamp:
9 *Provided*, That a flame safety lamp may be used for
10 methane testing when a malfunction occurs with a
11 methane detector. It shall also be his duty to remove as
12 soon as possible after its discovery any accumulations of
13 explosive or noxious gases in active workings, and where
14 practicable, any accumulations of explosive or noxious
15 gases in the worked out and abandoned portions of the
16 mine. It shall be the duty of the mine foreman, assistant
17 mine foreman or fire boss to examine each mine within
18 three hours prior to the beginning of a shift and before
19 any miner in such shift enters the active workings of the
20 mine.

**§22A-2-20. Preparation of danger signal by fire boss or
certified person acting as such prior to
examination; report; records open for
inspection.**

1 It shall be the duty of the fire boss, or a certified
2 person acting as such, to prepare a danger signal (a
3 separate signal for each shift) with red color at the mine
4 entrance at the beginning of his shift or prior to his
5 entering the mine to make his examination and, except
6 for those persons already on assigned duty, no person
7 except the mine owner, operator, or agent, and only then
8 in the case of necessity, shall pass beyond this danger
9 signal until the mine has been examined by the fire boss
10 or other certified person and the mine or certain parts
11 thereof reported by him to be safe. When reported by
12 him to be safe, the danger sign or color thereof shall be
13 changed to indicate that the mine is safe in order that
14 employees going on shift may begin work. Each person
15 designated to make such fire boss examinations shall be
16 assigned a definite underground area of such mine, and,
17 in making his examination shall examine all active
18 working places in the assigned area and make tests with
19 an approved device for accumulations of methane and
20 oxygen deficiency; examine seals and doors; examine
21 and test the roof, face, and ribs in the working places

22 and on active roadways and travelways, approaches to
23 abandoned workings and accessible falls in active
24 sections. He shall place his initials and the date at or
25 near the face of each place he examines. Should he find
26 a condition which he considers dangerous to persons
27 entering such areas, he shall place a conspicuous danger
28 sign at all entrances to such place or places. Only
29 persons authorized by the mine management may enter
30 such places while the sign is posted and only for the
31 purpose of eliminating the dangerous condition. Upon
32 completing his examination he shall report by suitable
33 communication system or in person the results of this
34 examination to a certified person designated by mine
35 management to receive and record such report, at a
36 designated station on the surface of the premises of the
37 mine or underground, before other persons enter the
38 mine to work in such coal-producing shifts. He shall also
39 record the results of his examination with ink or
40 indelible pencil in a book prescribed by the director,
41 kept for such purpose at a place on the surface of the
42 mine designated by mine management. All records of
43 daily and weekly reports, as prescribed herein, shall be
44 open for inspection by interested persons.

§22A-2-24. Control of coal dust; rock dusting.

1 (a) In all mines, dangerous accumulations of fine, dry
2 coal and coal dust shall be removed from the mine, and
3 all dry and dusty operating sections and haulageways
4 and conveyors and back entries shall be rock dusted or
5 dust allayed by such other methods as may be approved
6 by the director.

7 (b) All mines or locations in mines that are too wet
8 or too high in incombustible content for a coal dust
9 explosion to initiate or propagate are not required to be
10 rock dusted during the time any of these conditions
11 prevail. Coal dust and other dust in suspension in
12 unusual quantities shall be allayed by sprinkling or
13 other dust allaying devices.

14 (c) In all dry and dusty mines or sections thereof, rock
15 dust shall be applied and maintained upon the roof, floor
16 and sides of all operating sections, haulageways and

17 parallel entries connected thereto by open crosscuts.
18 Back entries shall be rock dusted. Rock dust shall be so
19 applied to include the last open crosscut of rooms and
20 entries, and to within forty feet of faces. Rock dust shall
21 be maintained in such quantity that the incombustible
22 content of the mine dust that could initiate or propagate
23 an explosion shall not be less than sixty-five percent, but
24 the incombustible content in return entries shall not be
25 less than eighty percent.

26 (d) Rock dust shall not contain more than five percent
27 by volume of quartz or free silica particles and shall be
28 pulverized so that one hundred percent will pass
29 through a twenty mesh screen and seventy percent or
30 more will pass through a two hundred mesh screen.

§22A-2-26. Roof support; specific requirements.

1 (a) *Generally.* — The method of mining followed in
2 any coal mine shall not expose the miner to unusual
3 dangers from roof falls.

4 (b) *Roadways, intersections and arches.* — The width
5 of roadways shall not exceed sixteen feet unless
6 additional support is added cross sectional. During the
7 development of intersections, the roof between the
8 tangents of the arches in the entry or room shall be
9 supported with artificial roof supports prior to the
10 development of such intersections. All areas where the
11 arch is broken shall be considered as having unsup-
12 ported roof and such roof should have artificial roof
13 supports installed prior to any other work being
14 performed in the area.

15 (c) *Examinations and corrections.* — Where miners
16 are exposed to danger from falls of roof, face, and ribs,
17 the operator shall examine and test the roof, face, and
18 ribs before any work or machine is started, and as
19 frequently thereafter as may be necessary to ensure
20 safety. When dangerous conditions are found, they shall
21 be corrected immediately. A probe or probes for
22 methane detectors shall be provided on each working
23 section other than longwall sections and sections mined
24 solely with continuous miners with integral roof bolters.

25 (d) *Roof bolt recovery.* — Roof bolts shall not be
26 recovered where complete extraction of pillars is
27 attempted, where adjacent to clay veins or at the
28 locations of other irregularities, whether natural or
29 otherwise, that induce abnormal hazards. Where roof
30 bolt recovery is permitted, it shall be conducted only in
31 accordance with methods prescribed in the approved
32 roof control plan, and shall be conducted by experienced
33 miners and only where adequate temporary support is
34 provided.

**§22A-2-37. Haulage roads and equipment; shelter holes;
prohibited practices; signals; inspection.**

1 (a) The roadbed, rails, joints, switches, frogs and
2 other elements of all haulage roads shall be constructed,
3 installed and maintained in a manner consistent with
4 speed and type of haulage operations being conducted
5 to ensure safe operation. Where transportation of
6 personnel is exclusively by rail, track shall be main-
7 tained to within five hundred feet of the nearest working
8 face, except that when any section is fully developed and
9 being prepared for retreating, then the distance of such
10 maintenance can be extended to eight hundred feet if
11 a rubber tired vehicle is readily available.

12 (b) Track switches, except room and entry develop-
13 ment switches, shall be provided with properly installed
14 throws, bridle bars and guardrails; switch throws and
15 stands, where possible, shall be placed on the clearance
16 side.

17 (c) Haulage roads on entries developed after the
18 effective date of this article shall have a continuous,
19 unobstructed clearance of at least twenty-four inches
20 from the farthest projection of any moving equipment
21 on the clearance side.

22 (d) On haulage roads where trolley lines are used, the
23 clearance shall be on the side opposite the trolley lines.

24 (e) On the trolley wire or "tight" side, after the
25 effective date of this article, there shall be at least
26 twelve inches of clearance from the farthest projection
27 of any moving equipment.

28 (f) Warning lights or reflective signs or tapes shall be
29 installed along haulage roads at locations of abrupt or
30 sudden changes in the overhead clearance.

31 (g) The clearance space on all haulage roads shall be
32 kept free of loose rock, coal, supplies or other material:
33 *Provided*, That not more than twenty-four inches need
34 be kept free of such obstructions.

35 (h) Ample clearance shall be provided at all points
36 where supplies are loaded or unloaded along haulage
37 roads or conveyors, which in no event shall be less than
38 twenty-four inches.

39 (i) Shelter holes shall be provided along haulage
40 entries driven after the effective date of this article
41 where locomotive, rope or animal haulage is used. Such
42 shelter holes shall be spaced not more than one hundred
43 feet apart, except when variances are authorized by the
44 director with unanimous agreement of the mine safety
45 and technical review committee. Shelter holes shall be
46 on the side of the entry opposite the trolley wire except
47 that shelter holes may be on the trolley wire and feeder
48 wire side if the trolley wire and feeder wire are guarded
49 in a manner approved by the director.

50 (j) Shelter holes made after the effective date of this
51 article, unless the director with unanimous agreement
52 of the mine safety and technical review committee
53 grants a waiver, shall be at least five feet in depth, not
54 more than four feet in width, and as high as the
55 traveling space. Room necks and crosscuts may be used
56 as shelter holes even though their width exceeds four
57 feet.

58 (k) Shelter holes shall be kept clear of refuse and
59 other obstructions.

60 (l) After the effective date of this article, shelter holes
61 shall be provided at switch throws and manually
62 operated permanent doors.

63 (m) No steam locomotive shall be used in mines where
64 miners are actually employed in the extraction of coal,
65 but this shall not prevent operation of a steam locom-
66 otive through any tunnel haulway or part of a mine that

67 is not in actual operation and producing coal.

68 (n) Underground equipment powered by internal
69 combustion engines using petroleum products, alcohol,
70 or any other compound shall not be used in a coal mine.

71 (o) Locomotives, personnel carriers, mine cars, supply
72 cars, shuttle cars, and all other haulage equipment shall
73 be maintained in a safe operating condition. Each
74 locomotive, personnel carrier, barrier tractor and other
75 related equipment shall be equipped with a suitable
76 lifting jack and handle. An audible warning device and
77 headlights shall be provided on each locomotive and
78 each shuttle car. All other mobile equipment, using the
79 face areas of the mine, purchased after the effective date
80 of this article, shall be provided with a conspicuous light
81 or other approved device so as to reduce the possibility
82 of collision.

83 (p) No persons other than those necessary to operate
84 a trip or car shall ride on any loaded car or on the
85 outside of any car. Where pusher locomotives are not
86 used, the locomotive operator shall have an assistant to
87 assist him in his duties.

88 (q) The pushing of trips, except for switching pur-
89 poses, is prohibited on main haulage roads: *Provided*,
90 That nothing herein shall prohibit the use of a pusher
91 locomotive to assist the locomotive pulling a trip.
92 Motormen and trip riders shall use care in handling
93 locomotives and cars. It shall be their duty to see that
94 there is a conspicuous light on the front and rear of each
95 trip or train of cars when in motion: *Provided, however*,
96 That trip lights need not be used on cars being shifted
97 to and from loading machines, on cars being handled at
98 loading heads during gathering operations at working
99 faces, or on trips being pulled by animals. No person
100 except the operator or his assistant shall ride on
101 locomotives or loaded cars. An empty car or cars shall
102 be used to provide a safe distance between the locom-
103 otive and the material car when rail, pipe or long
104 timbers are being hauled. A safe clearance shall be
105 maintained between the end car or trips placed on side
106 tracks and moving traffic. On haulage roads the

107 clearance point shall be marked with an approved
108 device.

109 (r) No motorman, trip rider or brakeman shall get on
110 or off cars, trips or locomotives while they are in motion,
111 except that a trip rider or brakeman may get on or off
112 the rear end of a slowly moving trip or the stirrup of
113 a slowly moving locomotive to throw a switch, align a
114 derail or open or close a door.

115 (s) Flying or running switches and riding on the front
116 bumper of a car or locomotive are prohibited. Back
117 poling shall be prohibited except with precaution to the
118 nearest turning point (not over eighty feet), or when
119 going up extremely steep grades and then only at slow
120 speed. The operator of a shuttle car shall face in the
121 direction of travel except during the loading operation
122 when he shall face the loading machine.

123 (t) (1) A system of signals, methods or devices shall
124 be used to provide protection for trips, locomotives and
125 other equipment coming out onto tracks used by other
126 equipment.

127 (2) In any coal mine where more than three hundred
128 fifty tons of coal are produced on any shift in each
129 twenty-four hour period, a dispatcher shall be on duty
130 when there are movements of track equipment under-
131 ground, including time when there is no production of
132 coal. Such traffic shall move only at the direction of the
133 dispatcher.

134 (3) The dispatcher's only duty shall be to direct
135 traffic: *Provided*, That the dispatcher's duties may also
136 include those of the responsible person required by
137 section forty-two of this article: *Provided, however*, That
138 the dispatcher may perform other duties which do not
139 interfere with his dispatching responsibilities and do not
140 require him to leave the dispatcher's station except as
141 approved by the mine safety and technical review
142 committee.

143 (4) Any dispatcher's station provided after the effec-
144 tive date of this article shall be on the surface.

145 (5) All self-propelled track equipment shall be

146 equipped with two-way communications.

147 (u) Motormen shall inspect locomotives, and report
148 any mechanical defects found to the proper supervisor
149 before a locomotive is put in operation.

150 (v) A locomotive following another trip shall maintain
151 a distance of at least three hundred feet from the rear
152 end of the trip ahead, unless such locomotive is coupled
153 to the trip ahead.

154 (w) Positive stopblocks or derails shall be installed on
155 all tracks near the top and at landings of shafts, slopes,
156 and surface inclines. Positive-acting stopblocks or
157 derails shall be used where necessary to protect persons
158 from danger of runaway haulage equipment.

159 (x) Shuttle cars shall not be altered by the addition
160 of sideboards so as to inhibit the view of the operator.

161 (y) Mining equipment shall not be parked within
162 fifteen feet of a check curtain or fly curtain.

163 (z) All self-propelled track haulage equipment shall
164 be equipped with an emergency stop switch, self
165 centering valves, or other devices designed to de-
166 energize the traction motor circuit in the event of an
167 emergency: *Provided*, That such equipment in operation
168 in a mine on or before the first day of January, one
169 thousand nine hundred eighty-seven, shall not be
170 required to be retrofitted. On or before the first day of
171 January, one thousand nine hundred eighty-seven, all
172 track mounted equipment shall be equipped with trolley
173 pole swing limiters or other means approved by the
174 mine safety and technical review committee to restrict
175 movement of the trolley pole when it is disengaged from
176 the trolley wire. Battery powered mobile equipment
177 shall have the operating controls clearly marked to
178 distinguish the forward and reverse positions.

§22A-2-43. Electric equipment in mines.

1 (a) *Methane*. — Electric equipment shall not be taken
2 into or operated in any place where methane can be
3 detected with a flame safety lamp or other approved
4 methane detector at one percent or more at any point

5 not less than twelve inches from the roof, face, or rib.

6 (b) *Return air.* — In all mines, electric haulage
7 locomotives operated from trolley wire and other
8 electrical equipment or devices which may ignite gas
9 shall not be used in return air, unless permission is
10 granted by the director for a specified area. For the
11 purpose of this provision, air used to ventilate a section
12 of a mine shall not be considered return air until such
13 time as the air has ventilated all of the workings in the
14 section.

15 (c) *Qualified person to operate cutting machine.* — No
16 person shall be placed in charge of a coal-cutting
17 machine in any mine who is not a qualified person,
18 capable of determining the safety of the roof and sides
19 of the working places and of detecting the presence of
20 explosive gas, unless they are accompanied by a
21 certified or qualified person who has passed such an
22 examination.

23 (d) *Inspections.* — In any mine no machine shall be
24 brought in by the last breakthrough next to the working
25 face until the machine man shall have made an
26 inspection for gas in the place where the machine is to
27 work. If explosive gas in excess of one percent is found
28 in the place, the machine shall not be taken in until the
29 danger is removed.

30 (e) *Indication of gas.* — In working places a suitable
31 approved apparatus for the detection of explosive gas,
32 shall be provided for use with each mining machine
33 when working, and should any indication of explosive
34 gas in excess of one percent appear on any apparatus
35 used for the detection of explosive gas, the person in
36 charge shall immediately stop the machine, cut off the
37 current at the nearest switch and report the condition
38 to the mine foreman or supervisor. The machine shall
39 not again be started in such place until the condition
40 found has been corrected and been pronounced safe by
41 a certified person.

42 (f) *Periodic gas examinations.* — No electric equip-
43 ment shall be operated in a mine for a longer period
44 than twenty minutes without an examination as above

45 described being made for gas; and if gas is found in
46 excess of one percent, the current shall at once be
47 switched off the machine, and the trailing cable shall
48 forthwith be disconnected from the power supply until
49 the place is pronounced safe.

50 (g) *Operation of mining machines.* — Machine runners
51 and helpers shall use care while operating mining
52 machines. They shall examine the roof of the working
53 place to see that it is safe before starting to operate the
54 machine. They shall not move the machine while the
55 cutter chain is in motion.

§22A-2-46. Welding and cutting.

1 (a) A record shall be kept of oxygen and gas tanks or
2 cylinders taken into a mine and the date shall be
3 recorded when they are removed from the mine. No
4 more tanks or cylinders than necessary to perform the
5 work efficiently shall be permitted underground at one
6 time.

7 (b) Propane torches may be used in lieu of blow-
8 torches. Only approved apparatus such as torches,
9 regulators, pressure reducing valves, hoses, check valves
10 and gas cylinders shall be used.

11 (c) Welding and cutting may be done in mines:
12 *Provided*, That all equipment and gauges are main-
13 tained in safe condition and not abused, that suitable
14 precautions are taken against ignition of methane, coal
15 dust, or combustible materials, that means are provided
16 for prompt extinguishment of fires accidentally started,
17 and that only persons who have demonstrated compet-
18 ency in welding and cutting are entrusted to do this
19 work. Adequate eye protection shall be used by all
20 persons doing welding or cutting, and precautions shall
21 be taken to prevent other persons from exposure that
22 might be harmful to their eyes. A suitable wrench
23 designed for compressed tanks shall be provided to the
24 person authorized to use the equipment.

25 (d) Transportation of oxygen and gas tanks or cylind-
26 ers shall be permitted on self-propelled machinery or
27 belt conveyors specially equipped for safe holding of the

28 containers in transportation. In no instance shall such
29 transportation be permitted in conjunction with any
30 mantrip, unless such mantrip is espeically equipped
31 with a compartment, lined with at least four inches of
32 foam rubber or the equivalent, and capable of tightly
33 securing the tank inside the manufactured frame of the
34 vehicle.

35 (e) Empty oxygen and gas tanks or cylinders shall be
36 marked "empty" and shall be removed from the mine
37 promptly in safe containers provided for transportation
38 of the same.

39 (f) When tanks and cylinders are not in use and when
40 they are being transported, valve protection caps and
41 plugs shall be placed on all tanks or cylinders for which
42 caps and plugs are available. No oxygen tanks, gas
43 tanks or cylinders shall be transported with the hoses
44 and gauges attached thereto.

45 (g) In all mines a certified person, pursuant to section
46 twelve of this article, shall examine for gas with
47 permissible flame safety lamps or other approved
48 detectors before and during welding or cutting. The
49 safety of the equipment and methods used in such cases
50 shall be subject to approval of the director. If equipment
51 is mobile, it shall be removed outby the last open
52 breakthrough before cutting and welding may be
53 performed on such equipment.

§22A-2-55. Protective equipment and clothing.

1 (a) Welders and helpers shall use proper shields or
2 goggles to protect their eyes. All employees shall have
3 approved goggles or shields and use the same where
4 there is a hazard from flying particles, or other eye
5 hazards.

6 (b) Employees engaged in haulage operations and all
7 other persons employed around moving equipment on
8 the surface and underground shall wear snug-fitting
9 clothing.

10 (c) Protective gloves shall be worn when material
11 which may injure hands is handled, but gloves with
12 gauntleted cuffs shall not be worn around moving

13 equipment.

14 (d) Safety hats and safety-toed shoes shall be worn by
15 all persons while in or around a mine.

16 (e) Approved eye protection shall be worn by all
17 persons while being transported in open-type man trips.

18 (f) A self-rescue device approved by the director shall
19 be worn by each person underground or kept within his
20 immediate reach, and such device shall be provided by
21 the operator. The self-rescue device shall be adequate to
22 protect such miner for one hour or longer. Each
23 operator shall train each miner in the use of such device,
24 and refresher training courses for all underground
25 employees shall be held during each calendar year.

§22A-2-56. Checking systems.

1 Each mine shall have a check-in and check-out system
2 which will provide positive identification of every person
3 underground and will provide an accurate record of the
4 persons in the mine kept on the surface in a place that
5 will not be affected in the event of an explosion. Said
6 record shall bear a number or name identical to the
7 identification check that is securely fastened to the lamp
8 belt of all persons underground. The identification check
9 shall be made of a rust-resistant metal of no less than
10 sixteen guage.

§22A-2-58. Fire protection.

1 (a) Suitable fire protection shall be provided at
2 surface installations of fans, shops, tipples, and prepa-
3 ration plants, substations, hoist rooms and compressor
4 stations.

5 (b) Fire drills and demonstration of various types of
6 available fire-fighting equipment shall be held for
7 employees at least every six months.

8 (c) The location of pipelines, location of valves, and
9 fire taps shall be shown on a map of the mine and kept
10 available at the mine office at all times.

11 (d) Each coal mine shall be provided with suitable
12 fire-fighting equipment adapted for the size and

13 condition of the mine. Fire-fighting equipment required
14 under this article shall meet the following requirements:

15 (1) Waterlines shall be capable of delivering fifty
16 gallons of water at a nozzle pressure of fifty pounds per
17 square inch.

18 (2) A portable water car shall be of at least one
19 thousand gallons capacity, and shall have at least three
20 hundred feet of fire hose with nozzles. A portable water
21 car shall be capable of providing a flow through the hose
22 of fifty gallons of water per minute at a nozzle pressure
23 of fifty pounds per square inch.

24 (3) A portable chemical car shall carry enough
25 chemicals to provide a fire extinguishing capacity
26 equivalent to that of a portable water car.

27 (4) A portable foam-generating machine shall have
28 facilities and equipment for supplying the machine with
29 thirty gallons of water per minute at thirty pounds per
30 square inch for a period of thirty-five minutes.

31 (5) A portable fire extinguisher shall be either a
32 multipurpose dry chemical type, containing a nominal
33 weight of five pounds of dry powder and enough
34 expellant to apply the powder; or a foam-producing type
35 containing at least two and one-half gallons of foam-
36 producing liquid and enough expellant to supply the
37 foam. Only fire extinguishers approved by the
38 Underwriters Laboratories, Inc. or Factor Mutual
39 Laboratories, carrying appropriate labels as to type and
40 purpose shall be used after the first day of July, one
41 thousand nine hundred seventy-one, and all new porta-
42 ble fire extinguishers acquired for use in a coal mine
43 shall be of the multipurpose dry chemical type, having
44 a 2A 10BC or higher rating.

45 (6) The fire hose shall be rubber-lined, mildew-proof
46 and the cover shall be of flame-resistant qualities,
47 meeting requirements for hose in Bureau of Mines
48 Schedule 2G, except that the test flame shall be applied
49 to the outer surface rather than to an open end. The
50 bursting pressure shall be at least four times higher
51 than the static water at the mine location; the maximum

52 water pressure in the hose nozzle shall not exceed 100
53 p.s.i.g.

54 (e) Each working section of coal mines producing
55 three hundred tons or more per shift shall be provided
56 with two portable fire extinguishers and two hundred
57 forty pounds of bagged rock dust or equivalent; water-
58 lines shall extend to each section loading point and be
59 equipped with enough fire hose to reach each working
60 face unless the section loading point is provided with one
61 of the following: (1) Two portable water cars or (2) two
62 portable chemical cars, or (3) one portable water car or
63 one portable chemical car and either a portable foam-
64 generating machine or a portable high-pressure rock-
65 dusting machine, fitted with at least two hundred fifty
66 feet of hose and supplied with at least sixty sacks of rock
67 dust.

68 (f) In all coal mines, waterlines shall be installed
69 parallel to the entire length of belt conveyors and shall
70 be equipped with fire hose outlets with valves at three-
71 hundred-foot intervals along each belt conveyor and at
72 tailpieces. At least five hundred feet of fire hose with
73 fittings suitable for connection with each belt conveyor
74 waterline system shall be stored at strategic locations
75 along the belt conveyor. Waterlines may be installed in
76 entries adjacent to the conveyor entry belt as long as the
77 outlets project into the belt conveyor entry. Each
78 working section of coal mines producing less than three
79 hundred tons of coal per shift shall be provided with two
80 portable fire extinguishers, two hundred forty pounds of
81 bagged rock dust and at least five hundred gallons of
82 water and at least three pails of ten-quart capacity. In
83 lieu of the five hundred gallon water supply, a waterline
84 with sufficient hose to reach the working places, a
85 portable water car of five hundred fifty gallons capacity,
86 or a portable all-purpose dry powder chemical car of at
87 least one hundred twenty-five pounds capacity may be
88 provided.

89 (g) In mines producing three hundred tons of coal or
90 more per shift, waterlines shall be installed parallel to
91 all haulage tracks using mechanized equipment in the
92 track or adjacent entry and shall extend to the loading

93 point of each working section. Waterlines shall be
94 equipped with outlet valves at intervals of not more than
95 five hundred feet, and five hundred feet of fire hose with
96 fittings suitable for connection with such waterlines
97 shall be provided at strategic locations. Two portable
98 water cars, readily available, may be used in lieu of
99 waterlines prescribed under this subsection.

100 (h) In mines producing less than three hundred tons
101 of coal per shift, there shall be provided at five-hundred-
102 foot intervals in all main and secondary haulage roads:
103 (1) A tank of water of at least fifty-five gallon capacity
104 with at least three pails of not less than ten-quart
105 capacity, or (2) not less than two hundred forty pounds
106 of bagged rock dust.

107 (i) Each track or off-track locomotive, self-propelled
108 man-trip car, or personnel carrier shall be equipped
109 with one portable fire extinguisher.

110 (j) Two portable fire extinguishers shall be provided
111 at each permanent electrical installation. One portable
112 fire extinguisher and two hundred forty pounds of rock
113 dust or equivalent shall be provided at each temporary
114 electrical installation.

115 (k) Two portable fire extinguishers and two hundred
116 forty pounds of rock dust or equivalent shall be provided
117 at each permanent underground oil storage station. One
118 portable fire extinguisher shall be provided at each
119 working section where twenty-five gallons or more of oil
120 are stored in addition to extinguishers required under
121 subsection (e) of this section.

122 (l) One portable fire extinguisher or two hundred
123 forty pounds of rock dust or equivalent and water shall
124 be provided at locations where welding, cutting, or
125 soldering with arc or flame is being done.

126 (m) At each wooden door through which power lines
127 pass there shall be one portable fire extinguisher or two
128 hundred forty pounds of rock dust or equivalent within
129 twenty-five feet of the door on the intake air side.

130 (n) At each mine producing three hundred tons of coal
131 or more per shift, there shall be readily available the

132 following materials at locations not exceeding two miles
133 from each working section:

- 134 (1) One thousand board feet of brattice boards
- 135 (2) Two rolls of brattice cloth
- 136 (3) Two handsaws
- 137 (4) Twenty-five pounds of 8 degree nails
- 138 (5) Twenty-five pounds of 10 degree nails
- 139 (6) Twenty-five pounds of 16 degree nails
- 140 (7) Three claw hammers
- 141 (8) Twenty-five bags of wood fiber plaster or ten bags
142 of cement (or equivalent material for stoppings)
- 143 (9) Five tons of rock dust.
- 144 (o) At each mine producing less than three hundred
145 tons of coal per shift, the above materials shall be
146 available at the mine: *Provided, however,* That the
147 emergency materials for one or more mines may be
148 stored at a central warehouse or building supply
149 company and such supply must be the equivalent of that
150 required for all mines involved and within one hour's
151 delivery time from each mine. This exception shall not
152 apply where the active working sections are more than
153 two miles from the surface.

**§22A-2-63. No mine to be opened or reopened without
prior approval of commissioner of the
department of energy; approval fee; exten-
sion of certificate of approval; certificates
not transferable; section to be printed on
certificates.**

- 1 (a) *Permit request.* — After the first day of July, one
2 thousand nine hundred seventy-one, no mine shall be
3 opened or reopened unless prior approval has been
4 obtained from the commissioner of the department of
5 energy, which approval shall not be unreasonably
6 withheld. The operator shall pay for such approval a fee
7 of ten dollars, which payment shall be tendered with the
8 operator's application for such approval: *Provided, That*

9 mines producing coal solely for the operator's use shall
10 be issued a permit without charge if coal production will
11 be less than fifty tons a year.

12 (b) *Extension of permit.* — Within thirty days after
13 the first day of January of each year, the operator of
14 each mine holding a certificate evidencing approval of
15 the commissioner to open a mine shall apply for the
16 extension of such certificate of approval for an addi-
17 tional year, excepting those approved by the director to
18 go on inactive status. Such approval, evidenced by a
19 certificate of the commissioner, shall be granted as a
20 matter of right and without charge if, at the time such
21 application is made, the operator is in compliance with
22 the provisions of section seventy-seven of this article and
23 has paid or otherwise appealed all coal mine assess-
24 ments imposed under article one-a, chapter twenty-two-
25 a of this code. Applications for extension of such
26 certificates of approval not submitted within the time
27 required shall be processed as an application to open or
28 reopen a mine and shall be accompanied by a fee of ten
29 dollars.

30 (c) *Not transferable.* — Certificates of approval issued
31 pursuant to this section shall not be transferable.

32 (d) *Status of certificate.* — The provisions of this
33 section shall be printed on the reverse side of every
34 certificate issued hereunder.

35 (e) *Preinspection.* — The district mine inspector shall
36 be contacted for a preinspection of the area proposed for
37 underground mining prior to the issuance of any new
38 opening approval.

§22A-2-71a. Right of miner to refuse to work in an unsafe area or unsafe manner.

1 Any miner has the right to refuse to work in an area
2 or under conditions which he believes to be unsafe.

§22A-2-77. Monthly report by operator of mine; exception as to certain inactive mines.

1 On or before the end of each calendar month, the
2 operator of each coal mine shall file with the director

3 a report with respect thereto covering the next preced-
4 ing calendar month which shall reflect the number of
5 accidents which have occurred at each such mine, the
6 number of persons employed, the days worked and the
7 actual tonnage mined. Such report shall be made upon
8 forms furnished by the director. Other provisions of this
9 section to the contrary notwithstanding, no such report
10 shall be required with respect to any mine on approved
11 inactive status if no employees were present at such
12 mine at any time during the next preceding calendar
13 month.

CHAPTER 64. LEGISLATIVE RULES.

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PRO- MULGATE LEGISLATIVE RULES.

§64-2-22(9)(6). Commissioner of the department of energy.

1 (a) The legislative rules filed in the state register on
2 the fourteenth day of November, one thousand nine
3 hundred eighty-six, modified by the commissioner of the
4 department of energy to meet the objections of the
5 legislative rule-making review committee and refiled in
6 the state register on the sixteenth day of December, one
7 thousand nine hundred eighty-six, relating to the
8 commissioner of the department of energy (standards
9 for certification of coal mine electricians) are
10 authorized.

11 (b) The legislative rules filed in the state register on
12 the fifteenth day of December, one thousand nine
13 hundred eighty-six, modified by the commissioner of the
14 department of energy to meet the objections of the
15 legislative rule-making review committee and refiled in
16 the state register on the twenty-first day of January, one
17 thousand nine hundred eighty-seven, relating to the
18 commissioner of the department of energy (safety
19 training program for prospective underground coal
20 miners in West Virginia) are authorized.

21 (c) The legislative rules filed in the state register on
22 the fifteenth day of December, one thousand nine
23 hundred eighty-six, modified by the commissioner of the

24 department of energy to meet the objections of the
25 legislative rule-making review committee and refiled in
26 the state register on the twenty-first day of January, one
27 thousand nine hundred eighty-seven, relating to the
28 commissioner of the department of energy (safety
29 training program for prospective surface coal miners in
30 West Virginia) are authorized.

31 (d) The legislative rules filed in the state register on
32 the third day of April, one thousand nine hundred
33 eighty-seven, relating to the department of energy
34 (standards for certification of underground belt examin-
35 ers for underground coal mines) are authorized.

Handwritten signatures and initials:
- Top left: "J.H." (likely John H. ...)
- Top right: "B. B. ..."
- Middle right: "L. B. ..."
- Bottom left: "Frank ..."

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Whittam
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect from passage.

Isidore A. Nichols
Clerk of the Senate

Donald S. Hogg
Clerk of the House of Delegates

Don Tamm
President of the Senate

Mont C. Chab
Speaker of the House of Delegates

The within *approved* this the *17th*
day of *April*, 1987.
Arthur Shaffer
Governor

PRESENTED TO THE
GOVERNOR

Date 4/13/87

Time 2:18 p.m.

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